IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

TUESDAY, THE SEVENTEENTH DAY OF AUGUST
TWO THOUSAND AND FOUR

PRESENT

THE HON'BLE MR JUSTICE BILAL NAZKI

and

THE HON'BLE MR JUSTICE S.ANANDA REDDY

WRIT PETITION NO : 11088 of 1992

Between:

M/s Ravinder Fertilizers, Banswada, represented by C. Ravinder, Proprietor, Nizamabad District, AP

..... PETITIONER

AND

1 The Addl. Commissioner of Civil Supplies and Ex-Officio Secretary to Governement , Food and Argiculture (C.S) Dept., Secretariat, AP.,

Hyderabad

2 The Collector (Civil Supplies)
Nizamabad District, Nizamabad AP.,

3 The Inspector of Police, Vigilance (Civil Supplies)
Nizamabad, Nizamabad District, A.P.,

.....RESPONDENTS

Petition under Article 226 of the constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court will be pleased to issue an appropriate Writ or order or direction under Article 226 of the Constitution of India, Particularly one in the nature of Writ of "Certiorari" quashing the order of the first respondent herein i.e., the Additional commissioner of the Civil Supplies and Ex. Officer Secretary to Govt, Food and Agriculture, (CS) Department , Secretariat, AP., Hyderabad passed in G.O.Ms. No. 1054, Food and Agriculture (CS-III) Department , dt. 31/07/1992 as unjust and illegal after calling for the records and

pass such other orders.

Counsel for the Petitioner: MR.PRATTIPATI VENKATESWARLU

Counsel for the Respondents: GP FOR CIVIL SUPPLIES

The Court made the following:

ORDER: (Per the Hon'ble Sri Justice Bilal Nazki)

Heard learned counsel for the petitioner. Nobody for respondents.

The petitioner has challenged an order passed by the Additional Commissioner of Civil Supplies in an appeal filed under Section 6-C of the Essential Commodities Act, 1955 (herein after referred to as 'the Act'). Certain quantity of fertilizer was seized and the matter was referred to the Collector under Section 6-A of the Act. Collector ordered for confiscation of 30% of the stocks seized. Against this order, an appeal was filed before the Additional Commissioner of Civil Supplies, who upheld the order of the Collector, but reduced the confiscation from 30% to 10%. Against this order, the writ petition has been filed.

The contention raised by the petitioner was that since the Police Officer was not notified as an Inspector under the Fertilizer order, therefore, he could not have seized the goods. This question has already been considered by this Court in Crl.R.C.No.8 and 1062 of 2002 and has come to the conclusion that the Police Officer is not debarred from seizing and reporting the seizure to the Collector under Section 6-A of the Act and he can also prosecute in terms of Section 7 of the Act, therefore, for this reason, the impugned order cannot be struck down.

Second argument, which was made by the learned counsel for petitioner was that there was no control order in force regulating the moment of fertilizer on the date of seizure, but we have found from the record that there was an order in force being A.P. Fertilizers (Distribution by Sale by dealers) Orders, 1978 and the allegations against the petitioner were that he had sold fertilizer without issuing bills to the purchasers, he had not maintained true and correct accounts of transactions, he was doing business in an unauthorized sales depot and storing fertilizers in an unauthorized godown. In his explanation, he tried to defend himself, but his defence did not find favour either with the Collector or with the Appellate Authority.

Essentially, the allegations which were levelled against the petitioner were factual and in these proceedings, we do not intend to reappraise the evidence and set aside the findings of fact by two authorities below.

For these reasons, the writ petition is dismissed. No costs.

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(BILAL NAZKI, J)

Date: 17-08-2004

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(S.ANANDA REDDY, J)

GHN/AJR

To

1 The Addl. Commissioner of Civil Supplies and Ex-Officio Secretary to Governement , Food and Argiculture (C.S) Dept., Secretariat, AP.,

Hyderabad

2 The Collector (Civil Supplies)
Nizamabad District, Nizamabad AP.,

3 The Inspector of Police, Vigilance (Civil Supplies)
Nizamabad, Nizamabad District, A.P.,

4. Two CCs to Government Pleader for Civil Supplies, High Court of A.P., Hyderabad.(o.u.t.)

5. Two CD copies.